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EXAMINER

JANVIER, JEAN D

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 01/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/835,731	Applicant(s) KEPROS ET AL.	
	Examiner Jean D Janvier	Art Unit 3622	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-21,24 and 27-38 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,4-21,24 and 27-38 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

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Response To Applicant's amendments

The Examiner approves the Applicant's amendments to the claimed invention and initials and signs the IDS as shown on the enclosed PTO Form 1449.

DETAILED ACTION

Specification

Status of the claims

Claims 2, 3, 22, 23, 25 and 26 are canceled and claims 1, 4-21, 24, and 27-38 are currently pending in the Application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4-9, 11-13, 15, 16-17, 19-21, 24, 27-32, 34-36 and 38 are rejected under 35 U.S.C. 102(e) as being anticipated by Quinlan, US Patent 6, 748, 365B1.

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As per claims 1, 4-9, 11-13, 15, 16-17, 19-21, 24, 27-32, 34-36 and 38, Quinlan discloses a system and method for processing product marketing rebate claims submitted by a consumer in satisfaction of a rebate offer, the consumer having purchased designated or required products in a qualified transaction recorded by a participating point-of-sale (POS) data processing and storage system that issues a receipt containing a corresponding transaction serial number or identifier (linking a purchase identifier to a purchase of a product). The method further comprises the steps of providing a designated site of a computer information network accessible by the consumer for placing a rebate claim and receiving the rebate claim on the designated site. The rebate claim includes receiving the transaction serial number corresponding to the qualified transaction (linking a purchase identifier to a product purchase related to the rebate claim), and (ii) identifying or verifying information corresponding to the consumer (validation or authentication process). The transaction serial number and the identifying information are stored as permanent data records. Moreover, an electronic file transfer is received from the point-of-sale data processing and storage system comprising purchase data records, each record comprising the list of products purchased and the transaction serial number for a qualified transaction in which at least one designated product was purchased (Receiving the purchase identifier from a store computer). Each stored data record is associated with a purchase data record having an identical serial number and the records are processed to validate the rebate claim (validating, authenticating or verifying step). The value of the rebate offer is transferred to the consumer. Consumer access to the designated site may be via the global computer information network (Internet) or by telephone. The providing of the rebate to the consumer, subsequent to a rebate

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claim, may also optionally integrate paper-based and smart/credit/debit-card-based rebate claims (See abstract).

The above method may also be modified to allow at least one consumer to transmit information, associated with a rebate claim, to the designated site over a global computer information network whereas at least one other consumer completes and mails a paper form, related to a rebate claim, to a fulfillment housing administered by the fulfillment administrator and makes a rebate claim by providing the serial number of the qualified transactions and personal information on the paper form. The fulfillment administrator, upon receipt of the paper form, accesses the designated site of the global computer information network, enters and transmits to the designated site the other consumer's personal information and the serial numbers corresponding to the other consumer's qualified transactions, and stores as a stored data record the personal information and the serial numbers transmitted by the other consumer (Col. 5: 29-43).

In a further embodiment, at least one consumer may purchase the one or more designated products using a smart card having a card number and a computerized data storage means, at which time the transaction serial number is stored as computerized data on the smart card computerized data storage means. The consumer can then enter the one or more transaction serial numbers and the personal information by using a smart card reader to automatically download the computerized data representing the stored transaction serial number and the card number from the smart card into a card reader. In such case, the card number comprises the personal information from which the consumer can be identified. The fulfillment administrator then transfers the cash value of the rebate claims to the consumer by crediting the smart card

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(crediting the consumer's account with the rebate value related to the claim or electronically transferring the rebate value to the consumer's smart card memory- col. 5: 44-57).

In another embodiment, the consumer may purchase the designated product using a designated card such as a credit card having a corresponding credit account, a debit card having a corresponding bank or debit account, or a smart card having computerized data storage means. The designated card is sponsored by the retail network and has a card number. In such case, a fulfillment administrator receives, when the consumer mails the rebate to a fulfillment house, in the electronic file transfer from a POS system (a store computer) at least one transaction data record comprising the designated card number and the corresponding transaction serial number for the qualified transaction. The fulfillment administrator already has on file a stored data record comprising personal information about each consumer indexed by the designated card number, so the fulfillment administrator then associates the transaction data record with the corresponding stored data record for the designated card number. The stored data record is updated with the transaction serial number, and the remainder of the method remains the same, **except that the cash value of the rebate claims may be credited to the consumer by crediting the corresponding credit account, the debit or bank account, or the smart card (electronic transfer of rebate cash value, related to a rebate claim, to the consumer's account)**. The above data entry method using the designated card for data entry and transmission to the dedicated site may be integrated with the Internet data entry and paper form data entry methods. The consumer may also receive, subsequent to claiming a rebate, a check having a value equal to the value of the rebate (col. 5: 58 to col. 6: 56; col. 7: 33-45).

See in general col.7: 66 to col. 8: 36; col. 9: 18-38.

Additionally, the rebate claim system, as described above, is secure whether the claim is performed Online via a designated network site or Off-line through a fulfillment house (col. 10: 30-50). Because a consumer can come home immediately after making a purchase in step 100 and access the designated site, in the Online model, in step 110, some consumers may wish to receive their rebate as soon as possible. Thus, the rebate method may further comprise the designated site interactively prompting the consumer in step 120 of fig. 2 to choose whether to proceed to method step 160 of fig. 2 immediately or to delay performing step 160 (i.e. delaying providing the value of the rebate related to a claim to the consumer). Thereafter, the consumer accesses the designated network site a second or subsequent time, the site may automatically recognize the consumer after transmitting only a portion of the personal information transmitted during the first access session, such as the name and zip code only, phone number only, e-mail address only, or any other limited portion of the consumer's personal information as deemed necessary. During the first visit to the designated site, the customer may be able to choose a username and password that can be entered during subsequent visits, and thus the username and password may constitute the partial or minimum information entered to be recognized. In such case, the designated site may interactively fill-in the computerized form with the remainder of their personal information upon entry of the partial information, or the site may prompt the consumer with a menu of addresses having the same name entered. From this menu, the consumer may merely choose which personal information is his or hers, and no further entry of personal information may be necessary, except to modify any information as necessary. The partial personal information transmitted by the consumer, via his computer, may require no entry at all, but instead may merely comprise information automatically transmitted by the consumer,

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such as a "cookie" saved on the consumer's computer from a previous visit to the designated site. Moreover, the consumer may simply enter a username and/or password and the designated site will automatically identify the consumer, as known in the art (Col. 10: 51 to col. 11: 67). In addition, the system, as herein disclosed, comprises a built-in module for releasing previously entered transaction codes or serial numbers or purchase identifiers for processing and for checking the status of a pending or previously submitted rebate claim (col. 14: 51-53). In other words, the secure rebate claim system, as disclosed by Quinlan, comprises appropriate Software to prevent a subsequent submission of a rebate claim whose transaction code or serial number or purchase identifier is already tagged or flagged in the designated site database or fulfillment house database as redeemed or processed or submitted by a specific consumer living in a particular zip code.

In another preferred embodiment, the rebate value related to a rebate claim, following a validation or clearing process, is electronically transferred to the consumer's credit card or debit card account number established at a bank or to the memory of the consumer's smart card. Indeed, use of the designated card by the consumer, in particular a card issued by the fulfillment administrator acting as an umbrella for a large retail network of otherwise unrelated retailers, **may trigger automatic access of the designated site, used for electronic rebate claim submission, on behalf of the consumer.** Thus, for a consumer using a designated card, the consumer may automatically make a rebate claim for any product purchased with the card. Such automatic access may occur from the POS data processing and storage system without further action by the consumer, as shown in FIGS. 5 and 6, (automatic claim submission at a POS). In the case of a smart card, which has data storage capacity on the card, the smart card may instead

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receive and store data from the POS system, such as the transaction serial number, and the consumer may then access the designated site in step 110, as shown in FIG. 2, and automatically enter the serial number data and personal information in step 120 via insertion of the smart card in a card reader/writer. The data may then be uploaded to the designated site without manual entry through a browser by the consumer. If the consumer has a refund waiting at the designated site to be credited to his card from a previous rebate claim submission, the credit can also be written to the card while during such a procedure (col. 14: 66 to col. 15: 53). Further, a consumer may be able to use his or her card at any of several retail establishments to automatically receive refunds credited to his or her account or downloaded to his smart card memory regardless of at which retailer the qualified product was purchased. Cash values related to pending or previously submitted rebate claims can be electronically transmitted to the memory of the consumer's smart card when the card is involved in a transaction at a member or participating POS. Thus, for instance, where smart card 292 of fig. 3 can be credited and debited by a participating retailer who offers the coordinated rebate program, the cash value may be transferred to the retailer who can then credit the consumer from the point-of-sale or POS system 210 of fig. 3 during the next visit. It should further be recognized here that the cash value or credit transferred to the retailer's POS system for later upload to the consumer's smart card memory should indeed include at least the transaction code or serial number or purchase identifier related to the previously submitted rebate claim such that all parties involved in the transaction are notified that the transferred credit is associated with a particular transaction identifier and appropriate records are kept (silently requesting or transmitting a transaction serial number or identifier to the store system). See col. 16: 52 to col. 17: 10; col. 18: 30-54; col. 19: 57 to col. 20: 2.

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In a further embodiment, retailers may enjoy a reduction in fraudulent activity. Because the individual serial numbers for each qualified transaction are unique, a fraudulent consumer cannot just manufacture any authentic-looking cash register receipt and successfully claim a rebate. Similarly, because the standard serial number issued by POS systems known in the art is also entered during returns of items, consumers purchasing a rebatable item, returning it, and still trying to claim a refund will be identified by the serial number of the transaction. Even if a consumer were to receive the check and then return the item after having check-in-hand, that consumer can be identified as someone who has fraudulently claimed a rebate once, and thus can be entered into the fraud-checking database for the next time (checking to see if the product was previously returned- Col. 19: 41-55).

Finally, in its most basic form, the invention comprises a method for processing a rebate claim including receiving from a consumer the transaction serial code of the transaction during which the rebate item was purchased, and then matching that code with a data record containing that code and the list of rebate products purchased, as provided by the point-of-sale data processing system. The transaction serial code may be received via access to a global computer information system, by telephone or through a computer such as a home computer, used by the consumer, or a kiosk, via direct telephone access or direct computer access, or by a paper mailing. **An e-mail containing the transaction serial code or purchase identifier could also be sent to a designated e-mail address of the designated network site without navigating the Internet through a browser (Broadly interpreted, the retailer transfers the purchase identifier or transaction code to the user's computer via an electronic communication and the user or consumer can then submit this purchase identifier or transaction serial number to the**

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designated site in order to claim a rebate related to the purchase identifier- Col. 20: 61 to col. 21:7).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14,18 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Quinlan in view of Bandera et al. (hereinafter Bandera), US Patent 6, 332, 127B1.

As per claims 14, 18 and 37, Quinlan discloses a system, wherein a consumer or user uses a personal computer to submit a rebate claim to a designated network site (web site having a web page), however, Quinlan fails to teach the use by the consumer of a personal digital assistant (PDA).

Bandera discloses a method, system and/or computer program product for providing time and location specific advertising object and other information object via a communication means 25 of fig. 1 to a user or customer using a portable terminal or mobile web client 21 of fig. 1 (PDA or PALM Pilot), having a display or screen, an input device and so forth, connected to the

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communication means 25 wherein advertising object 32 and other information 34 are returned to the user via a web page 26 in response to the accessing a web site by the user for information and wherein an object oriented programming language such as JAVA (software) or more specifically a JAVA Virtual Machine or JVM is running on the portable terminal so as to allow JAVA Applets (programs written in JAVA) to run on the portable terminal, thereby selecting advertisements to be displayed on the screen of the portable terminal based on the present location, and/or time of the day, associated with the mobile web client or portable terminal used by the user. (See abstract; figs. 1 and 6; col. 2: 33 to col. 3: 41; col. 5: 26 to col. 6: 24; col. 9: 29-41).

In another embodiment, an advertisement object can be selected based on the time of the day a user's request is received by a web server. For example, an advertisement object related to bagels may be selected by the web server and displayed within the requested web page along with requested information when the web page request is received between the hours of 6:00 AM-9:00AM, wherein the bagels are sold at a store located in the same area as the user of the Web client and wherein the user receives a coupon on the bagels and wherein the coupon is downloaded to the user's portable device and the user takes the portable device, having the coupon encoded thereon, to the local store POS to redeem the coupon, upon buying the required bagels, by uploading the stored coupon data to the local store POS terminal during a synchronization process performed in a wireless manner (col. 7: 41-52; col. 7: 56 to col. 9: 42).

Furthermore, it is well documented in the art to use a wireless device, such a cell phone, PDA, etc., to access a computer network, such as the Internet.

Therefore, an ordinary skilled artisan would have been motivated at the time of the

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invention to incorporate the above disclosure into the rebate claim system of Quinlan so as to use by a consumer a wireless device, such a PDA or cell phone, and a personal computer to submit a rebate claim at a designated web site or site on the Internet by entering the necessary information including the transaction identifier related to the rebate claim and the user's personal information, thereby enabling the user or consumer to wirelessly submit a rebate claim to the designated site immediately after buying one or more qualified item(s) in a qualified transaction regardless of the user's present location, wherein the credit associated with the rebate claim can be submitted in real-time to the user's wireless device and wherein the user can redeem or use the credit encoded in the memory of his portable or wireless device (cell phone) during a transaction at a local participating store while on the road and away from his normal zip code or geographic location.

Claims 10 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Quinlan in view of Lemon, US Patent 4, 674, 041.

As per claims 10 and 33, Quinlan fails to expressly teach a process or system for determining whether a limit of rebates for the product related to a particular rebate is reached or exceeded.

However, Lemon discloses a system having remotely located coupon printing stations installed in stores and capable of limiting the number of coupons printed in a given time period. Each coupon station has a display for indicating the available coupons, selection means to allow a consumer to choose the desired coupon and a coupon printer coupled to a station for printing

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the selected coupon. The system disables display of a particular coupon when a pre-selected coupon limit has been reached (col. 2: 16-19; col. 3: 39-54; col. 4: 47-51).

Therefore, an ordinary skilled artisan, implementing the Quinlan's system, would have been motivated at the time of the invention to incorporate the teachings of Lemon into the Quinlan's system so as to use a "check and balance system" or regression analysis technique by continuously monitoring the number of rebates given out as the qualified product, which triggers the generation of the rebates in the first place, is being sold to customers and if the number of rebates thus far distributed reaches or exceeds a preset threshold limit, then the system is operable to automatically decrease, based on the product manufacturer's desires, the value of subsequently issued rebates as the associated product is being purchased or simply stop or discontinue the promotion or the issuance of future rebates related to the sales of the said product even before the expiration date of the promotional period expires, thereby giving the manufacturer or rebate issuer, using a computer system linked to the stores POS terminals, the latitude or flexibility to increase or decrease or modify the targeted rebate value associated with the particular product (or to even discontinue the promotion) if the latest transaction data including redeemed rebate data received from a plurality of retail stores show that the number of coupons or rebates allowed to be printed and redeemed reaches or exceeds a preset number or the manufacturer's goal has been achieved such that the manufacturer can decrease the rebate value associated with the sales of the product or simply discontinue the promotion.

Response To Applicant's Arguments

Applicant argues, in general, that the prior art or the Quinlan's Patent fails to teach, as claimed in canceled claims 2, 3, 22, 23, 25 and 26, a process of and a system for receiving, via a network, a request for a purchase identifier from a store computer system or terminal, generating the purchase identifier for the purchase of the product and transmitting, via the network, the purchase identifier to the store computer tem or terminal. However, the Examiner respectfully and completely disagrees with the Applicant's conclusion. First of all, the further step of generating and transmitting a purchase identifier to the store computer, upon receiving a request for the purchase identifier, does not directly impact the process of completing a rebate claim, verifying the purchase identifier related to the rebate claim and accepting the rebate claim. Second of all, the process of receiving via a network, such as a LAN, WAN, etc., a request for a purchase identifier from a store computer system or store POS terminal during a transaction, generating the purchase identifier for the purchase of the product and transmitting via the network, such as a LAN or WAN, etc., the purchase identifier to the store computer tem or store POS terminal, wherein the purchase identifier or serial number is printed on the customer's receipt and wherein the customer uses the appended serial number or purchase identifier to place a rebate claim associated with the purchase of the required product, are silently or implicitly supported by Quinlan. In fact, in a typical store chain, all the POS terminals are linked to a File Server or central system, having a central repository or database, over a communication device, such as a LAN (Local Area Network) and/or a WAN (Wide Area Network), etc. All POS terminals or ECRs (Electronic Cash Register) within a store are connected together over a LAN and these POS terminals are also linked to other POS terminals and/or Headquarters master

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computer or Server via a WAN or other communication link. During a normal transaction at a store, UPC code on products are scanned or manually entered by the clerk and the scanned or entered UPC codes are compared with product codes previously stored, for example, in the central repository or database coupled to the File Server and prices are read or determined accordingly if matches are found. By the same token, if a scanned code is associated with a rebate product, then the system or the server is configured to print a receipt having a special purchase identifier or serial number, which will indicate to the system during a rebate claim that this serial number is related to a rebate. In general, all relevant data associated with transactions, including transaction identifiers or numbers, are contained in the central repository and read during transactions. The transaction identifiers or receipt numbers are read and retrieved from a pool of identifiers already stored in the central database or the identifiers are being generated (perhaps randomly) and in real-time and forwarded to the POS terminals during transactions. That is why it is hard to conduct a transaction can take place when the local File Server (LAN) or Headquarters master computer is down. Furthermore, some of these POS terminals are “dummy terminals” and cannot store data. In short, the step of transmitting to a store POS from a remote database or server over a network, such a LAN or a WAN, etc., a serial number or purchase identifier associated with the purchase of a rebate product during a transaction is implicitly disclosed by Quinlan. Moreover, these steps are usually transparent to the customer, clerk or even a store supervisor or manager and are internally performed in the background.

Additionally, features that are inherent in the art or widely used in the industry need not be disclosed in a reference in order for these features to be anticipated by the current prior art; in

other words, failure of those skilled in the art to contemporaneously recognize an inherent property, function or ingredient of a prior art does not preclude a finding of anticipation (MPEP 2131.01 (III)).

Finally, the Applicant's request for allowance or withdrawal of the last Office Action has been fully considered and respectfully denied in view of the foregoing response since the Applicant's arguments as herein presented are not plausible and thus, the last Office Action, as shown below, is hereby maintained and the current **Office Action has been made Final**.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication from the Examiner should be directed to Jean D. Janvier, whose telephone number is (703) 308-6287). The aforementioned can normally

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be reached Monday-Thursday from 10:00AM to 6:00 PM EST. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Eric W. Stamber, can be reached at (703) 305- 8469.

For information on the status of your case, please call the help desk at (703) 308-1113.

Further, the following fax numbers can be used, if need be, by the Applicant(s):

After Final- 703-872-9327

Before Final -703-872-9326

Non-Official Draft- 703-746-7240

Customer Service- 703-872-9325

JDJ

01/05/05

JEAN D. JANVIER
PRIMARY EXAMINER

Janvier Jean David